

Why product suppliers need to start preparations now for Scip notification

Vital issues remain unresolved for Echa's database of substances of concern in products, says REACHLaw's Tim Becker

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This is a critical year for the implementation of new EU provisions concerning candidate list substances in products. The new provisions were brought in under [Article 9](#) of the revised waste framework Directive (WFD).

There are two key elements.

Firstly, member states are tasked with ensuring that from 5 January 2021, any EU supplier of an article provides Echa with information pursuant to Article 33(1) of REACH – in other words, sufficient information, available to the supplier, to allow safe use of the article. The measure applies to substances of very high concern (SVHCs) included in Echa's REACH candidate list and which are present in concentrations above 0.1% w/w in an article or enclosed component of a complex object made up of component articles.

Secondly, Echa is tasked with establishing and maintaining a [database](#) to hold this information. Its purpose is to ensure that information about the presence of SVHCs is available throughout the whole lifecycle of products and materials, including the waste stage. Hence waste treatment operators will have access to the database – and consumers on request.

State of play

In September 2019, Echa published the detailed information requirements for the database that is now referred to as Scip – substances of concern in products – even though those requirements are currently limited to SVHCs on the candidate list. In fact these include several types of data from suppliers of articles not required under Article 33(1) even though this is the determining provision for the Scip notification obligation. Finally, it is now clear the agency sees the database as not only accessible to waste operators and consumers (upon their request), but to everybody.

Resource constraints meant Echa was unable to establish the new database by 5 January as required in the revised waste framework Directive. Instead, a [prototype](#) for testing purposes was released on 17 February, and will be demonstrated at a webinar on 17 March.

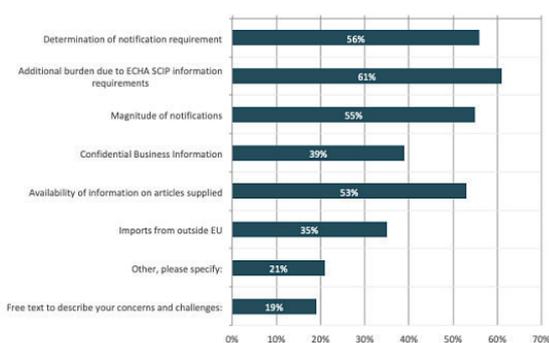
Article suppliers will not be able to make submissions to Echa to fulfil their notification duties until the end of October. This will leave just a few weeks for companies at every level of the supply chain to make the required submissions to comply with next January's first notification deadline.

Industry impact

The amount of work ahead for industry to get to grips with the new requirements cannot be overestimated. A REACHLaw survey conducted in January among suppliers of complex objects in a variety of industries found the majority expect a Scip notification requirement for their products. Yet, the overall level of preparedness remains very low, and there is uncertainty on how member states will implement it. A minority of respondents have assigned dedicated resources to Scip. Most indicated their primary concern was understanding the impact on their business, while highlighting multiple challenges (see chart below: Industry concerns and challenges with a view to Scip notifications and database, according to REACHLaw

3. What are your concerns and challenges with regard to SCIP notifications and database?

Number of respondents: 62, selected answers: 211



survey 2020).

Unresolved issues

Many critical issues relating to Scip notifications remain unresolved. A basic question yet to be answered is how to define a unique product subject to notification, and to what extent similar products can be covered by the same submission. The answer probably lies in considering a margin of responsible discretion for notifiers.

Another important question is how to report to Echa on very complex objects. The agency says information on an SVHC such as substance identifiers, concentration range and 'material category', should be provided for the smallest component article containing the substance. However, where bigger sub-assemblies are coated or joined together using mixtures containing the SVHC (through soldering, or adhesives for example), a reference to the higher assembly level could be appropriate and in line with the Echa guidance on requirements for substances in articles.

Echa has yet to clarify to what extent the product breakdown should be disclosed through the identification of different layers of a very complex object. Once again, the duty holder's margin of responsible discretion seems to be a useful guideline, given the absence of specific legal

prescriptions and concern that the product breakdown may be considered confidential business information (CBI). Many companies have asked to be able to refer to notifications by upstream actors, but it is unclear to what extent the agency will allow for this possibility.

In the end, the amount of information that can be reported will be limited to what has – and has not – been made available through the supply chain to the notifier.

Confidential information

Notifiers concerned about CBI, defence matters or security interests need to be aware of the public nature of the Scip database. Data relating to notified products will be disclosed without screening by Echa.

We understand that the identifiers of complex object components (other than their name and article category) will not be disclosed. But the agency has made it clear that it will not allow them to flag certain data as confidential when making notifications to the database. Hence, the only way to avoid disclosing protected data will be not to submit them. However, this could create a predicament for companies wanting to ensure legal compliance.

Learning about Scip

In the next few months, article suppliers at every level of the supply chain will need to become familiar with Echa's tools (luclid, system-to-system for example), new terminology describing the data requirements, and the categories they must use to identify articles, materials and mixtures.

Article categories will be based on Annex I (combined nomenclature) to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and the common customs tariff, as amended. This is a list of more than 20,000 entries, updated annually. The appropriate article category needs to be chosen for each article or complex object identified in a Scip notification.

Member state transposition

Member state implementation of the Scip notification requirement is due by 5 July. Echa has recommended that use of its Scip formats and submission tools is imposed on industry to ensure harmonised transposition throughout the EU. However, the legal text of the revised WFD says only that member states should ensure the article supplier 'provides' the information to Echa – not how this should be done.

Thus, transposition by member states will determine whether the Scip system, as currently envisaged, connecting notifications directly to the database, is going to work.

Conclusion

Echa's Scip database is an undertaking of great complexity for everybody involved, but especially for industry. Notification will not be a one-off exercise for article suppliers, but an ongoing project that needs to be continuously managed. Scip will also put pressure on global supply chains, requiring more sophisticated supply chain management to obtain the data needed.

Companies are strongly advised to follow – and where possible influence – the database's final evolutions in the coming months, and to get ready for notification by 5 January 2021. An organised and pragmatic response will be better than none.

The views in this article are those of the guest columnist and not necessarily shared by Chemical Watch.

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